

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

IN RE

KIM M. GARBO
Debtor

Chapter 7
Case 21-11053

**NOTICE OF MOTION TO AVOID JUDICIAL LIENS
UNDER 11 U.S.C. § 522(f)**

Relief Sought: Order Avoiding Judgment Lien on Debtor's Homestead

Hearing Date: November 29, 2021

Time: 10:00AM

Place: United States Bankruptcy Court, Western District of New York
Robert H. Jackson U.S. Courthouse
2 Niagara Square
Buffalo, NY 14202

Grounds for relief: 11 U.S.C. § 522(f)

Papers: Motion & Exhibits

Response: To be submitted as soon as practicable

PLEASE TAKE FURTHER NOTICE that pursuant to the Court's COVID-19 Procedures, this hearing may be held telephonically. Additional information and call-in instructions may be found at the Court's website located at: <https://www.nywb.uscourts.gov/court-coronavirus-covid-19-news-and-updates>

Dated: November 9, 2021

/s/Christopher J. Tyrpak

Christopher J. Tyrpak
Attorney for Debtor
2560 Walden Ave. Ste. 112
Cheektowaga, NY 14225
716-288-9175

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

IN RE

KIM M. GARBO

Debtor

Chapter 7
Case 21-11053

MOTION TO AVOID JUDGMENT LIEN

Christopher J. Tyrpak, attorney for the Debtor, hereby affirms:

1. Upon information and belief, the Debtor's homestead is located at 99 Ilion Street, Tonawanda, NY 14150 ("Property").
2. The Debtor owned the property with her ex-spouse, Joseph P. Garbo, by virtue of deed recorded in the Erie County Clerk's Office on October 23, 1997 in Liber 10922 of Deeds at page 8068. The ex-spouse subsequently conveyed his interest in the property to the Debtor on May 20, 2021 by deed recorded in the Erie County Clerk's Office on May 20, 2021 to comply with a matrimonial settlement agreement (Exhibit 1).
3. The full market value of the property according to the tax assessment at the time of filing was \$161,000 (Exhibit 2). The petition values the Property at \$170,000 as the Debtor's estimate of its value.
4. At the time of filing there was an unavoidable mortgage in favor of The Summit Federal Credit Union with an outstanding balance of \$90,640 (Exhibit 3).
5. There is the following judgment lien recorded in the Erie County Clerk's Office (Exhibit 4):

Lienor:	Discover Bank
Defendant:	Joseph P. Garbo
Court:	City of Tonawanda
Rendered:	12/20/2019
Judgment Amount:	3,310.63
Liber/Page:	Q 329/696
6. The Debtor duly claimed a homestead exemption of \$89,975.00 under NYCPLR § 5206. Said judgment lien impairs the claimed homestead exemption.

Wherefore, Debtor prays for an order avoiding the judicial lien of Discover Bank as against the above-mentioned property pursuant to 11 USC 522(f) and for such additional or alternative relief as may be just and property.

Dated: November 9, 2021

/s/Christopher J. Tyrpak

Christopher J. Tyrpak
2560 Walden Ave. Ste. 112
Cheektowaga, NY 14225
716-288-9175